

REMARKS

Applicants appreciate that there is no rejection over the art.

The claims have been amended in response to the rejection under 35 U.S.C. 112, first and second paragraphs. Support for the definition of R¹ is found on page 7 of the application in paragraph 33, last three lines. Support for the definition of “spacer” is found paragraph 32 of the specification, also on page 7. As explained in that paragraph, the spacer may include portions derived from peptides, pseudopeptides, polyalkylene glycols and the like. The specific instance where the spacer “is” CH₂CH₂ is limited to the situation where a phosphatidyl polyethylene is employed and the spacer is contained in the ethanolamine substituent.

Claim 1 has also been amended to limit the value of “n” to 1. After reviewing the formula, it became evident that a direct linkage between the oxygen of the phosphate and the nitrogen of NR² would be unstable. Thus, some type of spacer must always be present. Since n is always 1, claim 2 is redundant and has been canceled. Claims formerly dependent on claim 2, such as claims 3 and 9, have been amended to correct the dependency. Claim 9 has also been amended as suggested by the Office. No new matter has been added and entry of the amendment is respectfully requested.

Rejection Under 35 U.S.C. § 112, First Paragraph, Written Description

At least a portion of this rejection has been mooted by amending the definition of R¹ as suggested by the Office. Applicants appreciate this suggestion made by the Office which is acknowledged to overcome the outstanding rejections as to R¹ for lack of enablement and written description.

The definition of spacer has also been inserted, but this definition is not precisely what the Office has committed itself to accept as overcoming this rejection. The definition is taken from paragraph 32, as referenced above. It is clear from this definition that the spacer need not "be" a peptide or polyalkylene glycol, but that it simply may include these moieties. Respectfully, applicants believe sufficient guidance has been given in the specification by virtue of inclusion of these moieties, along with the description in paragraphs 57-61. Clearly, in light of these instructions, the practitioner would know how to construct the spacer to effect the proper length and to, if necessary, include a cleavage site. Types of spacers suitable for this purpose are not mysterious, and the practitioner would have no problem constructing an effective spacer, depending on the parameters at which measurement is to be made.

It is understood, of course, that a specification need not set forth details that would be evident to the skilled artisan. The general nature of the spacer is now set forth in the claim and there is no reason further to limit it. One of ordinary skill would understand that the spacer, should it not merely be the ethanolamine portion of the phosphatidyl ethanolamine envisioned, must be sufficiently hydrophilic to offset the chelating agent into the aqueous medium. Thus, peptides, pseudopeptides and polyalkylene glycals are suggested. Reconsideration of this aspect of the rejection in light of the amendment and this discussion is respectfully requested.

Rejection Under 35 U.S.C. § 112, Second Paragraph

This basis for rejection is mooted by the amendment to claim 9 as kindly suggested by the Examiner.

Conclusion

The claims have been amended to accommodate the rejections made under 35 U.S.C. § 112. Therefore, it is believed that claims 1 and 3-23 are in a position for allowance and passage of these claims to issue is respectfully requested.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 532512001000.

Respectfully submitted,

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